

- (b.) A method for improving cell respiration (Claims 25-27).

If species (a.) is elected, the Office has required a further election of:

- (c.) A method of protecting with a gel particle (Claims 1-3, 19-24);
(d.) A method with a gel particle from one compound (Claims 4-11); or
(e.) A method with two amphiphilic compounds (Claims 12-24).

If (c.) is elected, then a water-insoluble ionic amphiphilic lipids (Claim 21) and an active principle (Claim 22);

If (d.) is elected, then a compound (Claim 4 (i)) and a dispensing and stabilizing agent (Claim 11);

If (e.) is elected, then a compound forming an inverse hexagonal phase (Claims 14, 16, and 18) and a compound forming a lamellar phase (Claims 15 and 18).

Applicants elect, with traverse, a method for improving keratin (species (a.)), for further prosecution. Claims 1-24 read on the elected species. With the election of species (a.), Applicants elect, with traverse, method of protecting with a gel particle (species (c.)), for further prosecution. Claims 1-3 and 19-24 read on the elected species. With the election of species (c.), Applicants further elect, with traverse, water-insoluble N-aryl derivatives of glutamic acid and salts thereof (Claim 21 (iii)) as a water-insoluble ionic amphiphilic lipids. In addition, with the election of species (c.), Applicants further elect, with traverse, butylmethoxydibenzoylmethane (page 13, lines 10-13) as an active principle.

Applicants traverse the Election of Species Requirement between (a.) and (b.) on the

- ① grounds that the Office has failed to provide adequate reasons and/or examples to support this restriction. Accordingly, Applicants respectfully submit that the Office has failed to
② meet the burden necessary in order to sustain the Election of Species Requirement.

Withdrawal of the Restriction Requirement is respectfully requested.

Applicants make no statement regarding the patentable distinctness of the species, but

note that for restriction to be proper, there must be a patentable difference between the species as claimed. MPEP §808.01(a). Applicants respectfully traverse the Election of Species Requirement on the grounds that the Office has not provided any reasons or
3 examples to support a conclusion that the species are indeed patentably distinct.

Accordingly, Applicants respectfully submit that the restriction is improper, and Applicants' election of species is for examination purposes only.

Moreover, the MPEP in §803 states as follows:

"If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office.

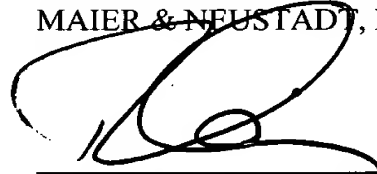
Finally, with respect to the elected species, Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

Accordingly, and for the reasons presented above, Applicants submit that the Office
4 has failed to meet the burden necessary in order to sustain the Election of Species Requirement. Withdrawal of the Election of Species Requirement is respectfully requested.

Applicants respectfully submit that the above-identified application is now in
condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Richard L. Treanor, Ph.D.
Attorney of Record
Registration No.: 36,379

Vincent K. Shier, Ph.D.
Registration No. 50,552



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PHONE NO.: (703) 413-3000
FAX NO.: (703) 413-2220
NFO:VKS:ksh

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